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Attorneys for Defendant
HOMAX PRODUCTS, INC.

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

SAN FRANCISCO TECHNOLOGY INC.,

Plaintiff,

v.

AERO PRODUCTS INTERNATIONAL
INC., ET AL.

Defendants.

Case No. 10 CV-02994-JF

**DEFENDANT HOMAX PRODUCTS,
INC.'S NOTICE OF MOTION TO
DISMISS PURSUANT TO RULE 12(B)(6)
UNDER RULES 8(A) AND/OR 9(B)**

Judge: Hon. Judge Jeremy Fogel
Date: October 1, 2010
Time: 9:00 a.m.
Courtroom: Courtroom 3, 5th Floor

NOTICE OF MOTION

PLEASE TAKE NOTICE, that on October 1, 2010 at 9:00 a.m., or as soon thereafter as this matter may be heard, before the Honorable Judge Jeremy Fogel, at the United States District Court for the Northern District of California, 280 South 1st Street, San Jose, California, in Courtroom 3, 5th Floor, Defendant Homax Products, Inc. ("Homax"), by and through its counsel of record, will move the Court pursuant to Fed. R. Civ. P. 12(b)(6) for an Order dismissing Plaintiff San Francisco Technology Inc.'s ("SFT") Complaint against Homax. This Motion is based on the Memorandum of Points and Authorities herein, the pleadings and papers on file in this action, such matters as the Court may take judicial notice, and argument and evidence to be presented at the hearing on this Motion.

RELIEF REQUESTED

Homax seeks dismissal of SFT's claims against Homax pursuant to Fed. R. Civ. P. 12(b)(6) under Rules 8(a) and/or 9(b). Specifically, SFT has failed to sufficiently state a claim for relief as required under Rule 8(a). Further, SFT has failed to plead allegations of fraud with particularity, as is required under Rule 9(b), which applies to false patent marking claims under 35 U.S.C. § 292. Thus, SFT has failed to state a claim against Homax upon which relief can be granted and the Court must dismiss Homax under Fed. R. Civ. P. 12(b)(6).

Dated: August 25, 2010

Respectfully submitted,

By: _____/s/_____

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